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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,756	11/26/2003	Peter W. Dodge	5712	9955

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05/19/2005

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EXAMINER

SANTOS, ROBERT G

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,756

Applicant(s)

DODGE, PETER W.

Examiner

Robert G. Santos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 8 and 16 are objected to because of the following informalities:
 - 1) In claim 1, line 9: The term "side" should be changed to --sides--.
 - 2) In the first line of claims 8 & 16: The phrase --at least one-- should be inserted before the term "catch".Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,327,591 to Fireman et al. As concerns claims 1 and 11, Fireman et al. show the claimed limitations of a furniture frame (1) comprising a first section (20, 30) having a first side and second side, the first section having at least one wheel (22) rotatably secured thereto and at least one support member (21) secured thereto; a prop bar (24) secured to the at least one supporting member; a second section (10) connected to the first section, the second section having a first side and a second side and including at least one support member (11); and at least one catch member (40) secured to one side of the second section, the catch member having at least one

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notch for engaging a portion of the prop bar thereon. With regards to claims 2 and 12, the reference is considered to show a condition wherein the first section (20, 30) comprises a backrest section and the second section (10) comprises a seat section in Figure 1 and in column 6, lines 8-10. As concerns claim 3, the reference discloses a condition wherein the second section is connected to the first section through the engagement of a protruding member (51) located on the first side of the first section with a slot located on the first side of the second section and a protruding member located on the second side of the first section with a slot located on the second side of the second section (as shown in Figures 1-5 and as described in column 6, lines 36-39). With regards to claims 4 and 13, the reference is considered to show a condition wherein the at least one wheel (22) comprises a first wheel and a second wheel rotatably secured to the first section in Figures 2, 3 & 5. As concerns claims 5 and 14, the reference discloses a condition wherein the at least one support member (21) of the first section comprises a first support member secured to the first side of the first section and a second support member secured to the second side of the first section (see Figure 5). With regards to claim 6 and with further regards to claim 11, the reference is considered to show a condition wherein the at least one support member (11) of the second section comprises a first support member secured to the first side of the second section and a second support member secured to the second side of the second section in Figure 5. As concerns claims 7 and 15, the reference discloses a condition wherein the at least one catch member comprises a first catch member (40) secured to an interior surface of the first side of the second section and a second catch member secured to an interior surface of the second side of the second section (see Figure 5). With regards to claims 8 and 16, the reference is considered to show a condition wherein the catch

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member (40) having at least one notch comprises a catch member having a first notch and second notch in Figure 5. As concerns claim 9, the reference discloses the use of at least one stop member (46, 47) located on the side of the first section for limiting the movement of the support member of the first section when the furniture frame is in the bed position. With regards to claims 10 and 17, the reference is considered to show a condition wherein the first side and the second side of the first section (20, 30) comprises an L-shape configuration in Figure 4.

4. Claim 20 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Pat. No. 5,315,722 to Djie (note especially Figures 3a-3c, 4a-4c, 7a, 7b & 8; column 5, lines 31-68; column 6, lines 1-22; and column 7, lines 9-37).

Response to Amendment

In response to Applicant's arguments on pages 3 and 4 of his amendment concerning claims 1 and 11, the examiner respectfully maintains that Fireman et al. '591 still disclose the structure of a prop *bar* secured to at least one supporting member as broadly recited in Applicant's claims. Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974). Moreover, the examiner respectfully maintains that the at least one catch member (40) of the furniture frame (1) of Fireman et al. '591 supports the furniture frame in a couch position as shown in Figure 3 of the reference and that support member (21) does in fact comprise a portion of the first section (20, 30) as disclosed in column 6, lines 18-19 of Fireman et al. '591.

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With regards to Applicant's arguments on page 5 of his amendment concerning claims 8 and 16, the examiner respectfully disagrees and maintains that the at least one catch member (40) contains a notched (lower left) portion as clearly shown in Figures 1 & 3-5. Furthermore, in response to Applicant's arguments on page 6 of his amendment regarding claim 9, the examiner respectfully maintains that Fireman et al. '591 still disclose the use of at least one stop member (46, 47) located on the side of the first section for limiting the movement of the support member (21) of the first section since all of these elements are interconnected together (through element 24).

Lastly, Applicant's arguments on pages 7 and 8 with respect to claim 20 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

5. Claims 18 and 19 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
May 16, 2005